

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BENJAMIN ESPINOSA,

Plaintiff,

v.

CALVIN JOHNSON, et al.,

Defendants.

Case No.: 2:23-cv-00125-GMN-BNW

ORDER

On January 24, 2023, pro se plaintiff Benjamin Espinosa, an inmate in the custody of the Nevada Department of Corrections, submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). Plaintiff's application to proceed *in forma pauperis* is incomplete because Plaintiff did not file an application on this Court's approved form and did not include a financial certificate and an inmate trust fund account statement for the previous six-month period with the application. The Court will deny Plaintiff's application without prejudice and give Plaintiff the opportunity to correct these deficiencies by March 27, 2023.

17 I. DISCUSSION

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See 28 U.S.C. § 1914(b). “Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*.” Nev. Loc. R. Prac. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court: (1) a completed **Application to Proceed *in Forma Pauperis* for Inmate**, which is pages 1–3 of the Court’s approved form, that is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is page 4 of the Court’s approved form, that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate’s prison or jail trust fund account**

1 statement for the previous six-month period. See 28 U.S.C. § 1915(a)(1)–(2); Nev.
2 Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her
3 obligation to pay the filing fee, it just means that the inmate can pay the fee in installments.
4 See 28 U.S.C. § 1915(b).

5 As explained above, Plaintiff's application to proceed *in forma pauperis* is
6 incomplete. The Court will therefore deny Plaintiff's application to proceed *in forma*
7 *pauperis* without prejudice and grant Plaintiff an extension of time to either pay the filing
8 fee or file a new fully complete application to proceed *in forma pauperis* with all three
9 required documents.

10 **II. CONCLUSION**

11 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No. 1)
12 is denied without prejudice.

13 It is further ordered that Plaintiff has **until March 27, 2023**, to either pay the full
14 \$402 filing fee or file a new fully complete application to proceed *in forma pauperis* with
15 all three required documents: (1) a completed application with the inmate's two signatures
16 on page 3, (2) a completed financial certificate that is signed both by the inmate and the
17 prison or jail official, and (3) a copy of the inmate's trust fund account statement for the
18 previous six-month period.

19 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
20 Plaintiff fails to timely comply with this order. A dismissal without prejudice allows Plaintiff
21 to refile the case with the Court, under a new case number, when Plaintiff can file a
22 complete application to proceed *in forma pauperis* or pay the required filing fee.

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The Clerk of the Court is directed to send Plaintiff Benjamin Espinosa the approved form application to proceed *in forma pauperis* for an inmate and instructions for the same and retain the complaint (ECF No. 1-1) but not file it at this time.

DATED: January 30, 2023.

Brenda Weksler
BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE